



**COMMERCIAL LOAN PLACEMENT AND FEE AGREEMENT**

This Loan Placement and Fee Agreement (“Agreement”) entered into this 13 day of March, 2006 between MortgageMac LLC and \_\_\_\_\_.

**Recitals**

- A. Borrower desires to obtain a loan in the amount of \$\_\_\_\_\_ to be secured by the property located at ‘\_\_\_\_\_’ (“Property”). The term “Borrower” shall include all persons or entities affiliated with Borrower, including, but not limited to, partners, shareholders and shareholders of partners of Borrower.
- B. MortgageMac LLC is a Real Estate Broker/Lender engaged in the business of arranging and making loans secured by real property. Such loans may be funded by MortgageMac LLC, institutional lender(s), or private lenders or have placed their funds with MortgageMac LLC for purposes of making real property secured loans.
- C. Borrower has applied to MortgageMac LLC for the above mentioned real property loan and, therefore, the Borrower and MortgageMac LLC agree as follows:

**Agreement**

- 1. Lender’s/Broker’s Exercises of Due Diligence: Should MortgageMac LLC elect not to fund the loan itself, MortgageMac LLC agrees to use its best efforts to exercise due diligence to obtain a loan satisfactory to Borrower from available lending institutions or private lending sources. MortgageMac LLC has no authority to make promises, representations or warranties for lender(s) unless the terms are set forth in writing signed by the lender.
- 2. Borrower’s Agreement to Cooperate: Borrower agrees to cooperate with MortgageMac LLC in assembling the necessary loan information to the lender(s) intending to make the loan through MortgageMac LLC. Borrower’s satisfaction with the loan terms shall be evidenced by Borrower’s written execution of the loan documents submitted to the escrow holder by the lender(s).
- 3. Proposed Loan Terms, Fees, Costs, And Expenses Applied For By Borrower: The proposed loan terms, fees, costs and expenses are as follows:

Loan Amount: \$_____	Term: <u>15 Year Fully Amortizing Term</u>
Interest Rate: <u>TBD 90 days prior to closing</u>	Additional Provisions: _____
Loan Fees: \$_____ (e)	Prepayment Penalty: _____
Closing Cost: \$TBD (e)	

(e) = Estimated

4. Borrower's Representation and Warranties: Borrower represents that information furnished, is true, accurate and complete to the best of the Borrower's knowledge and belief and no material information has been withheld. Any material changes prior to the date of the funding of the loan shall be disclosed by Borrower to MortgageMac LLC in writing. Borrower warrants that Borrower is the fee holder of the Property and is authorized to enter into this Agreement by all of the fee holders (should more than one fee holder be applying for the loan described).
5. Borrower's Authority: Borrower hereby grants to MortgageMac LLC the exclusive right to obtain a loan during the following period ("Placement Term") commencing upon the Effective Date (as defined hereinafter) and terminating upon close of business on August 1, 2006 ("Termination Date").
6. Borrower's Agreement to Pay Commissions/Fees/Finder's Fee: In the event that MortgageMac LLC obtains a Loan equal to or more favorable with the provisions of item #3, or pursuant to terms which are otherwise acceptable to the Borrower, a two percent, (2.00%) commission/finders fee of the gross loan commitment amount will be due and payable to MortgageMac LLC or to its order and a \_\_\_\_\_percent, (\_\_\_\_\_% ) commission/finders fee to \_\_\_\_\_ as the borrowers agent. Said commission/finders fee is earned by MortgageMac LLC for services rendered as the Lender/Investors agent and is due and payable upon the earlier of: (I) funding of the loan or any portion of a project or construction loan by a lender(s) or, (II) Borrower's failure or refusal to close the loan in accordance with the provisions of this Agreement. Should Borrower terminate this agreement with MortgageMac LLC, or otherwise prevent MortgageMac LLC from closing the loan, the Borrower shall promptly pay to MortgageMac LLC, upon written demand therefore, a six percent, (6.00%) of the gross loan amount for which the Borrower has applied pursuant to item #3. Said payment shall compensate MortgageMac LLC for the Borrower's breach of this Agreement.
7. Borrower's Instructions to Escrow Holder: Borrower hereby authorizes and directs the escrow holder or closing agent to pay all loan fees including brokerage commissions directly from the proceeds of the Loan upon the funding thereof. This Agreement shall serve as Borrower's written authorization for MortgageMac LLC to so demand such payment directly from such escrow holder or closing agent. This authorization shall constitute an irrevocable assignment of the Borrower's loan proceeds in an amount to disburse commissions and fees due and owing to MortgageMac LLC or to its order
8. Borrower's Agreement to Pay MortgageMac LLC Outside of Escrow: If for any reason MortgageMac LLC's fees and commissions are not disbursed directly by a lender or a loan escrow to MortgageMac LLC or to its order, Borrower agrees immediately upon receipt of funds directly from Lender(s) or through the Loan transaction to disburse commissions and feeds due and owing to MortgageMac and its order.

9. Non-Circumvention: Borrower agrees and covenants that he/she will not directly or individually or in conjunction with any person, company, partnership or corporation solicit, promote, consent or contact the lender(s) introduced by MortgageMac LLC or its assignee with respect to other requests except by written consent by MortgageMac LLC or its successors/assignee for a period of two (2) years from the date of said introduction.
10. Borrower's Agreement to Pay Application, Appraisal and Credit Report Fees: Borrower agrees to pay MortgageMac LLC an application fee in the amount of: \$1,500.00, at the time of application. Borrower shall pay directly to the appraiser, selected by MortgageMac LLC, the appraisal fee estimated to be in the amount of \$\_\_\_\_\_. Additionally, Borrower shall pay to the credit reporting bureau selected by MortgageMac LLC a credit report fee in the amount of \$50.00 for each General Partner and/or owner of more than 10% of the Borrower. Borrower understands that the application, appraisal and credit investigation fees shall be paid whether or not a loan is obtained. MortgageMac LLC shall have no liability if it uses its best efforts but is unable to obtain a lender(s) willing and able to fund this loan, or if MortgageMac LLC elects not to issue its own funds to make the proposed loan. Borrower's liability, in such event, shall be limited to any previously paid application, appraisal and credit report fees.
11. Disclosure Regarding Agency Relationships: MortgageMac LLC., its officers and or agents will act as the Lender(s) or investors agent only. MortgageMac LLC is not the Borrower's agent, even if by this agreement MortgageMac LLC. may receive compensation for services rendered in the transaction, either in full or in part from Borrower. A borrower should look to their agent for professional service to protect his or her interests.
12. Arbitration of Disputes: Should the initials of borrower and lender(s) appear below, all controversies or claims among or between the parties including borrower, lender(s), MortgageMac LLC, their respective officers, directors, agents, employees and assignees, arising out of or relating to the proposed loan, including by not limited to the arranging thereof, documents relating thereof, and the servicing and enforcement thereof, shall be determined by binding arbitration in accordance with applicable rules of the American Arbitration Association or Judicial arbitration and Mediation Services, Inc ("JAMS"), at the election of the party initiating arbitration.

Judgment on the arbitrator's award may be entered in any court having jurisdiction. All fees and expenses of the arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses and their preparation and presentation of proofs. The arbitration proceeding shall be conducted in County of Bergen, State of New Jersey.

**NOTICE: IF YOU INITIAL IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLDUEDED IN THE “ABRITRATION OF DISPUTES” PROVISION DECIDED BY MUTUAL ARBITRATION AS PROVIDED BY LAW AND YOU ARE GIVING UP YOUR RIGHT TO HAVE THE DISPUTE LITIGATED IN A CORUT OR JURY TRIAL. YOU ARE ALSO GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. YOUR AGREEMENT TO THE ARBITRATION PROVISION IS VOLUNTARY. NOTWITHSTANDING YOUR ELECTION TO ARBITRATE, YOU HAVE THE RIGHT TO CONTACT APPROPRIATE REGULATORY AGENCIIES TO REGISTER A Complain ABOUT THE COMPANY OR THIS TRANSACTION.**

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE “ARBITRATION OF DISPUTES” PROVISION TO NEUTRAL ARBITRATION.**

**BORROWER AND LENDER: INITIAL ONLY IF YOU AGREE TO ARBITRATION:**

\_\_\_\_\_  
**MM Initial**

\_\_\_\_\_  
**Borrower Initial**

\_\_\_\_\_  
**Borrower Initial**

13. Miscellaneous Provisions: The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement. This agreement shall not be modified by either party by an oral representation made before or after its execution. All modifications must be in writing and signed by the parties.

All negotiations are merged into this Agreement. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared this Agreement and in accordance with the laws of the state. This Agreement constitutes the final, complete and exclusive statement of the terms of the Agreement between MortgageMac LLC and Borrower.

14. Notices: All notices permitted or required under this Agreement shall be deemed given upon personal delivery or certified mail and shall be in writing to the addressed indicated below for each party.

15. Effective Date and Binding upon Parties: This Agreement is to be effective as of the date of acceptance by MortgageMac LLC evidenced by the signature of the authorized representative in the space provided below. This Agreement shall constitute a binding obligation between the parties and their successors and assignees to the extent the duties and obligations are assignable

16. Borrower Instructed to Obtain Professional Advice: THE BORROWER ACKNOWLEDGES THAT HE/SHE/THEY HAVE BEEN INSTRUCTED TO OBTAIN PROFESSIONAL ADVICE FOR LEGAL, TAX OR ANY FINANCIAL PLANNING PURPOSED RELATED TO THIS AGREEMENT OR THE LOAN FOR THE BORROWER HAS APPLIED.

17. Time Is Of The Essence: Time is of the essence for the performance of each and every covenant and the satisfaction or each and very condition contained in this Agreement.

18. Exhibits: All Exhibits attached hereto are incorporated herein by this reference.
19. Execution in Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original Agreement, and all of which shall constitute an Agreement by and between the parties hereto.

**DO NOT SIGN THIS AGREEMENT UNTIL YOU HAVE READ AND UNDERSTAND ALL OF THE INFORMATION ON IT. BORROWER AND LENDER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.**

_____	_____
<b>Borrower</b>	<b>Date</b>
_____	_____
<b>Borrower</b>	<b>Date</b>
_____	_____
<b>Borrower</b>	<b>Date</b>
_____	_____
<b>Borrower</b>	<b>Date</b>

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**Borrowers Mailing Address**

By: \_\_\_\_\_ **Bryant Nielson, Managing Director** \_\_\_\_\_ **Date**

**MortgageMac LLC**  
**151 West Passaic Street, 2nd Floor**  
**Rochelle Park, NJ 07662**